

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL NELSON,

Plaintiff,

v.

C. HAUSER, *et al.*,

Defendants.

No. 4:22-CV-00686

(Chief Judge Brann)

ORDER

AND NOW, this 10th day of February 2023, in accordance with the accompanying Memorandum, **IT IS HEREBY ORDERED** that:

1. Defendants' motions to dismiss under Federal Rule of Civil Procedure 12(b)(6), (Docs. 42, 82, 87), are **GRANTED** in part and **DENIED** in part, as follows:
 - a. Nelson's Eighth Amendment claim under 42 U.S.C. § 1983 of deliberate indifference to serious medical needs against defendant Lwekamaw is **DISMISSED** pursuant to Rule 12(b)(6).
 - b. Nelson's claims for compensatory and punitive damages are **DISMISSED** pursuant to Rule 12(b)(6). Any claim for injunctive relief has already been addressed and denied.
 - c. Defendants' motions are **DENIED** in all other respects.
2. Nelson's state-law negligence claims are **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) as they are barred by state statutory immunity.

3. Nelson's state-law medical malpractice claims are **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.
4. The Clerk of Court is directed to terminate defendant Lwekamaw.
5. Defendants shall respond to the remaining Section 1983 claims as required by Federal Rule of Civil Procedure 15.

BY THE COURT:

s/ Matthew W. Brann

Matthew W. Brann

Chief United States District Judge